

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

CHAMBERS OF
ESTHER SALAS
UNITED STATES DISTRICT JUDGE

MARTIN LUTHER KING
COURTHOUSE
50 WALNUT ST.
ROOM 5076
NEWARK, NJ 07101
973-297-4887

September 24, 2021

LETTER ORDER

Re: ***FR8 Zone, Inc. v. Jay Enterprises, Inc., et al.***
Civil Action No. 20-5560 (ES) (MAH)

Dear Parties:

On April 7, 2021, counsel for plaintiff FR8 Zone, Incorporated (“Plaintiff”) moved to withdraw because, after discussions with Plaintiff’s managing member, counsel had no expectation that past or future attorney’s fees would be paid. (*See generally* D.E. No. 26). On April 30, 2021, Magistrate Judge Michael A. Hammer granted counsel’s motion to withdraw. (D.E. No. 28). In granting the motion, Magistrate Judge Hammer also ordered that Plaintiff—a corporation not permitted to proceed *pro se*—appoint new counsel. (*Id.*; *see also* D.E. No. 31 at 2). The April 30, 2021 Order stated that Plaintiff’s failure to appear with counsel on or before June 14, 2021, would result in an Order to Show Cause. (D.E. No. 28). No appearances on behalf of Plaintiff were entered. (D.E. No. 31 at 4).

Thereafter, on July 14, 2021, Magistrate Judge Hammer issued an Order to Show Cause, giving Plaintiff until August 4, 2021, to explain why it had not appointed counsel. (D.E. No. 29). The Order to Show Cause also explained that Plaintiff’s failure to respond may result in the dismissal of Plaintiff’s claims and an entry of default against Plaintiff on Defendants’ counterclaims. (*Id.* at 2). Plaintiff never filed a response to the Order to Show Cause, and it did not seek an extension of time to respond or contact the Court to inquire about the status of this action. (D.E. No. 31 at 3). As a result, on August 24, 2021, Magistrate Judge Hammer issued a Report and Recommendation that the Undersigned strike Plaintiff’s amended complaint, dismiss Plaintiff’s claims, and enter default against Plaintiff in favor of Defendants on Defendants’ counterclaims. (*Id.* at 6–7). The parties had fourteen days to file and serve any objections to Magistrate Judge Hammer’s Report and Recommendation pursuant to Local Civil Rule 72.1(c)(2). To date, neither party has filed any objections.

Having reviewed the docket and Magistrate Judge Hammer’s Report and Recommendation, and for the reasons stated therein,

IT IS on this 24th day of September 2021,

ORDERED that this Court ADOPTS Magistrate Judge Hammer’s Report and Recommendation (D.E. No. 31) in full as the Opinion of this Court; and it is further

ORDERED that Plaintiff's amended complaint (D.E. No. 9) is STRICKEN and its claims against Defendants are DISMISSED; and it is further

ORDERED that the Clerk of Court shall ENTER default against Plaintiff on Defendants' counterclaims; and it is further

ORDERED that the Defendants must file a motion for default judgment on their counterclaims against Plaintiff within 30 days of the date of this Order.

/s/ Esther Salas
Esther Salas, U.S.D.J.